

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2117

Introduced by Assembly Members Gorell and Achadjian

February 23, 2012

An act to add ~~Sections~~ *Section* 13377.5 and 13378.5 to the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2117, as amended, Gorell. Waste discharge requirements: stormwater.

Under existing law, the State Water Resources Control Board (state board) and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the federal national pollutant discharge elimination system (NPDES) permit program. Existing law requires the state board or the regional boards to issue waste discharge requirements which apply and ensure compliance with all applicable provisions of the Federal Water Pollution Control Act and any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.

~~This bill would prohibit implementation of any new stormwater effluent standards or limitations more stringent than the provisions of the Federal Water Pollution Control Act until January 1, 2017. This bill would require the state board, in consultation with affected stakeholders, to prepare a comprehensive statewide stormwater plan, as prescribed, if and submit the plan to the Legislature, by January 1, 2015, subject~~

to agreement by the United States Environmental Protection Agency agrees to provide grant money to cover the costs and to submit the plan to the Legislature by January 1, 2016 of preparing the plan.

Existing law requires waste discharge requirements be adopted only after notice and any necessary hearing.

This bill would permit state board and regional board staff and members to discuss pending stormwater waste discharge requirements with affected parties so long as the discussion is publicly disclosed.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) While stormwater represents a significant threat to the water
- 3 quality of California's rivers, lakes, and oceans, the current storm
- 4 water program is not addressing the full spectrum of pollutants
- 5 and does not represent a holistic approach to the issue.
- 6 (b) California's stormwater program has focused on end-of-pipe
- 7 regulation instead of a more balanced focus on area sources. This
- 8 focus on end-of-pipe regulation has resulted in a new round of
- 9 proposed waste discharge requirements with extremely high
- 10 implementation costs that do not represent an effective use of
- 11 resources by the wide range of individuals subject to stormwater
- 12 waste discharge requirement already suffering from the down
- 13 economy. At a time when local governments are laying off police
- 14 and fire personnel, school districts are closing schools, university
- 15 tuition is skyrocketing, and businesses are stagnating, individuals
- 16 are facing ten-fold increases in stormwater waste discharge
- 17 requirement costs with individual cities facing multimillion dollar
- 18 yearly implementation costs. The state's highway program would
- 19 be severely impacted as well, creating profound long-term
- 20 implications for the economy. Repeated testimony continues to
- 21 state that there is minimal water quality improvement from these
- 22 costs.
- 23 (c) California's stormwater still does not integrate the substantial
- 24 contribution of area sources that remain beyond the reach and
- 25 control of individuals subject to stormwater waste discharge
- 26 requirements, including, but not limited to, the storm water
- 27 contributions from automotive brake pads. Despite the fact that

landmark legislation, SB 346, Chapter 307 of the Statutes of 2010, was passed to substantially reduce copper and other toxic constituents in brake pads over the next 20 years, California's stormwater program does not factor in the need and progress to be made from these reductions. Instead, the program continues to expect individuals to somehow reduce pollutants, like automotive brake pads, over which the individual has no control and at a cost that could be in the billions of dollars and affect the basic core missions of California's institutions and businesses.

(d) Stormwater represents a valuable potential water source for capture and use yet the current program, by placing sole emphasis on the constituent levels, may actually hinder the long-term prospects of stormwater reuse through public perception that stormwater is too polluted to ever reuse.

(e) It is necessary to limit the expansion of the stormwater waste discharge requirements program beyond current federal requirements while the State Water Quality Control Board and stakeholders consider holistic changes necessary for the long-term solution to this problem.

(f) The Legislature finds that the United States Environmental Protection Agency (EPA) has actively supported California's stormwater program including proposed standards and requirements in excess of federal requirements as well as financial grants. The Legislature finds that to the extent that this program is derived from federal requirements and the EPA encourages California to innovate in stormwater management, the EPA should provide funds for comprehensive stormwater planning.

SEC. 2.

SECTION 1. Section 13377.5 is added to the Water Code, to read:

13377.5.—(a) Notwithstanding any other law, until January 1, 2017, the state board or any regional board shall not implement new stormwater effluent standards or limitations more stringent than the provisions of the Federal Water Pollution Control Act.

(b) (1)

13377.5. (a) The state board, in consultation with affected stakeholders, shall prepare a comprehensive statewide stormwater plan and submit it to the Legislature by January 1, 2016 2015. This plan shall consider the full spectrum of stormwater constituents and contain recommendations for necessary legislation to establish

1 broad mechanisms to ensure that individuals subject to stormwater
2 waste discharge requirements do not have responsibility to remove
3 constituents from their stormwater discharge that they did not
4 create and have no control over. This plan shall also consider the
5 costs and benefits of stormwater capture and reuse compared to
6 the costs and benefits of stormwater discharge regulation.

7 (b) A plan to be submitted pursuant to subdivision (a) shall
8 include recommendations for implementation of the federal
9 requirements for the control of stormwater discharges of municipal
10 separate storm sewer systems under Phase II regulations. With
11 respect to those regulations, the plan shall do all of the following:

12 (1) Identify cost-effective activities to comply with the permitting
13 and stormwater management program requirements under Phase
14 II regulations of the federal Clean Water Act (33 U.S.C. Sec. 1342,
15 40 C.F.R. 122.32, 123.35).

16 (2) Review the effectiveness of best management practices and
17 numerical standards for water contaminants.

18 (3) Review regulatory actions by state agencies to reduce the
19 sources of stormwater contamination.

20 (4) Review available data on pollution prevention measures to
21 reduce sources of stormwater contamination.

22 (5) Review available actions to increase the capture of
23 stormwater for beneficial reuse.

24 (c) A plan to be submitted pursuant to subdivision (a) shall
25 include recommendations for regulatory and legislative actions
26 needed to ensure water quality protection.

27 ~~(2)~~

28 (d) (1) The requirement for submitting a ~~report~~ plan imposed
29 under ~~paragraph (1)~~ subdivision (a) is inoperative on January 1,
30 2020 2019, pursuant to Section 10231.5 of the Government Code.

31 ~~(3)~~

32 (2) A ~~report~~ plan to be submitted pursuant to ~~paragraph (1)~~
33 subdivision (a) shall be submitted in compliance with Section 9795
34 of the Government Code.

35 ~~(4)~~

36 (e) The requirement to prepare a plan pursuant to this
37 subdivision shall be subject to an agreement by the United States
38 Environmental Protection Agency to provide grant money to cover
39 the cost of preparing the plan.

40 SEC. 3. ~~Section 13378.5 is added to the Water Code, to read:~~

1 ~~13378.5. Notwithstanding any other law, the staff and members~~
2 ~~of the state board or a regional board may discuss pending storm~~
3 ~~water waste discharge requirements with affected parties so long~~
4 ~~as the discussion is publicly disclosed.~~

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